

Iowa Department of Natural Resources Environmental Protection Commission

ITEM



DECISION

TOPIC **Notice of Intended Action: Ease of Application Rules - Chapter 22**

The Department is requesting permission from the Commission to proceed with the rulemaking process and publish a Notice of Intended Action to amend Chapter 22, “Controlling Pollution,” of the 567 Iowa Administrative Code.

Reason for Rulemaking

The purpose of the proposed air quality rule changes is to formalize permitting process improvements identified during the “Lean” events involving the Department and the Office of Lean Enterprise in the Department of Management and stakeholders from 3M Company, Grain Processing Corporation, Monsanto Company, Pella Corporation, and Stanley Consultants, Inc. Lean is a collection of principles, methods, and tools that improve the speed and efficiency of any process by eliminating waste.

Summary of Proposed Rule Changes

The rule changes clarify what types of mail services may be used to submit construction permit and Title V permit applications and to make clear that applications are not required to be submitted by certified mail. The rule changes also describe what constitutes a valid electronic signature for construction permit and Title V permit applications that may be submitted electronically, and the electronic media submission requirements for compliance with the federal Cross Media Electronic Reporting Rule.

For example, submittal of an application by electronic mail or other electronic program would be acceptable if the application bears a valid electronic signature and otherwise complies with the requirements of the Cross Media Electronic Reporting Rule. However, the Department’s current electronic submittal system does not accommodate the use of a valid electronic signature. Therefore, an applicant could e-mail all the pages of an application to the Department except the signature page(s). The signature page(s) would need to be submitted in accordance with the Cross Media Electronic Reporting Rule (e.g., faxed or submitted via a paper copy). The Department anticipates making available an electronic application system that does accommodate a valid electronic signature that complies with the Cross Media Electronic Reporting Rule in the near future.

Additionally, the proposed changes reduce the regulatory burden for construction permit applications for projects that do not emit or will not emit greenhouse gases (GHG) by eliminating the requirement to submit the current 3-page GHG form. The proposed rule also eliminates the requirement to submit two copies of the Title V permit application to the Department, only one copy is now required (a similar change was made for construction permit applications in the Regulatory Certainty rules package).

Stakeholder Involvement

The Department prepared a draft rulemaking package and, on August 22, 2016, announced the opportunity for informal public input on the draft proposal. The Department announced the public input period through the air quality list serve and posted the draft proposal on its air quality public input page www.iowadnr.gov/airstakeholder. The air quality list serve has about 2,600 recipients, of which 485 opened the email announcement. Additionally, the Department discussed the draft proposal at the Air Quality Client Contact Meeting on August 18, 2016, which hosted approximately 48 participants. All

stakeholders that participated in the Lean events (3M Company, Grain Processing Corporation, Monsanto Company, Pella Corporation, and Stanley Consultants, Inc.) were provided the opportunity through the list serve or direct contact to provide input on the draft rulemaking.

The Department received two general questions during the informal review period ending on September 16, 2016. The Department provided information for the two inquiries, and has not received any additional questions or comments on the draft rulemaking package.

Public Comments and Public Hearing

If the Commission approves the proposed rulemaking, the Department will hold a public hearing on Monday, February 20, 2017, at 1:00 p.m. at the DNR Air Quality Bureau office. The Department will accept written public comments until 4:30 p.m. on Monday, February 20, 2017.

Christine Paulson, Environmental Specialist Senior
Program Development Section, Air Quality Bureau
Environment Services Division

Memo date: November 28, 2016

ENVIRONMENTAL PROTECTION COMMISSION [567]

Notice of Intended Action

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 22 “Controlling Pollution” of 567 Iowa Administrative Code.

The purpose of the proposed rulemaking is to formalize permitting process improvements identified during “LEAN” events involving the Department of Natural Resources (Department) and the Office of Lean Enterprise in the Department of Management and stakeholders from 3M Company, Grain Processing Corporation, Monsanto Company, Pella Corporation, and Stanley Consultants, Inc. LEAN is a collection of principles, methods, and tools that improve the speed and efficiency of any process by eliminating waste.

Item 1 amends the requirements for submitting construction permit applications to clarify the types of mailing services that may be used to submit applications and to make clear that applications are not required to be submitted by certified mail. Additionally, Item 1 describes what constitutes a valid electronic signature for construction permit applications that may be submitted electronically.

Item 1 also establishes electronic media submission requirements necessary for compliance with the federal Cross Media Electronic Reporting Rule adopted in 567-Chapter 15. For example, submittal of an application by electronic mail or other electronic program would be acceptable if the application bears a valid electronic signature and otherwise complies with the requirements of the Cross Media Electronic Reporting Rule. However, the Department’s current electronic submittal system does not accommodate the use of a valid electronic signature. Therefore, an applicant could e-mail all the pages of an application to the Department except the

signature page(s). The signature page(s) would need to meet the requirements of 567 – Chapter 15. The Department anticipates making available an electronic application system that does accommodate a valid electronic signature that complies with the Cross Media Electronic Reporting Rule in the near future.

Item 2 reduces the regulatory burden for construction permit applicants for projects that will not emit Greenhouse Gases (GHG) by eliminating the requirement for those applicants to submit the current three-page GHG form. Applicants will instead be able to indicate that the application includes no GHG emissions in the project description.

Item 3 amends the requirements for submitting Title V permit applications to clarify the types of mailing services that may be used to submit applications and to make clear that applications are not required to be submitted by certified mail. For the applicant's convenience, the Commission is proposing to require that only one copy of the application (rather than two) be submitted to the Department. Additionally, Item 3 describes what constitutes a valid electronic signature for Title V Operating Permit applications that may be submitted electronically.

Item 3 also establishes electronic media submission requirements necessary for compliance with the federal Cross Media Electronic Reporting Rule adopted in 567-Chapter 15. For example, submittal of an application by electronic mail or other electronic program would be acceptable if the application bears a valid electronic signature and otherwise complies with the requirements of the Cross Media Electronic Reporting Rule. However, the Department's current electronic submittal system does not accommodate the use of a valid electronic signature. Therefore, an applicant could e-mail all the pages of an application to the Department except the signature page(s). The signature page(s) would need to meet the requirements of 567—Chapter 15. As stated above, the Department anticipates making available an electronic application

system that does accommodate a valid electronic signature that complies with the Cross Media Electronic Reporting Rule in the near future.

Anyone may make written suggestions or comments on the proposed rule changes on or before February 20, 2017. Please direct written comments to Christine Paulson, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa, 50324, fax (515) 725-9501, or by E-mail to christine.paulson@dnr.iowa.gov.

A public hearing will be held on Monday, February 20, 2017, at 1:00 p.m. in the conference rooms at the Department's Air Quality Bureau office located at 7900 Hickman Road, Windsor Heights, Iowa. All comments must be received no later than 4:30 p.m. on February 20, 2017.

Any person who intends to attend the public hearing and has special requirements such as those related to hearing or mobility impairments should contact Christine Paulson at (515) 725-9510, or by E-mail at christine.paulson@dnr.iowa.gov to advise of any specific needs.

Jobs Impact Statement

After analysis and review, the Commission has determined the proposed amendments will have a positive impact on private sector jobs. These amendments clarify submittal aspects of the construction permit and Title V permit application processes and provide additional certainty for applications regarding the application submittal process and, in some cases, regulatory relief. For instance, facilities that had previously chosen to submit hard copy applications by certified mail are likely to realize cost savings by using another, less expensive submittal method. In addition, there will be cost and time savings with having to submit only one copy of the Title V permit application to the Department. And the requirement to submit GHG forms is being eliminated in many instances. These savings can be put back into the company (e.g., to be used for job creation).

These amendments are intended to implement Iowa Code section 455B.133.

The following amendments are proposed.

Item 1. Amend subrule **22.1(3)** as follows:

22.1(3) *Construction permits.* The owner or operator of a new or modified stationary source shall apply for a construction permit. Two copies of a construction permit application for a new or modified stationary source shall be presented or mailed to Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324. Application submission methods may include, but are not limited to: U.S. Postal Service, private parcel delivery services, and hand delivery. Applications are not required to be submitted by certified mail. Alternatively, the owner or operator may apply for a construction permit for a new or modified stationary source through the electronic submittal format specified by the department.

Each permit application submitted to the department electronically must bear a valid electronic signature, and must otherwise comply with the requirements of 567-Chapter 15. A valid electronic signature, as defined in 567—Chapter 15, means an electronic signature on an electronic document created by using an electronic signature device that the identified signatory is uniquely entitled to use for signing the electronic document, provided the device has not been compromised and provided the signatory is an individual authorized to sign the document by virtue of legal status or relationship to the entity on whose behalf this signature is created. At a minimum, the signature page(s) of an application must contain a valid electronic signature created using an electronic signature device. The remainder of the application may be submitted via e-mail or any other paper or electronic method. An owner or operator may submit

applications with signatures that do not meet the definition of a valid electronic signature contained in 567-Chapter 15, when the documents are submitted via facsimile; electronic documents are submitted via magnetic or optical media; or non-federal, state only program information is submitted through an electronic submittal system.

The owner or operator of any new or modified industrial anaerobic lagoon or a new or modified anaerobic lagoon for an animal feeding operation other than a small operation as defined in rule 567—65.1(455B) shall apply for a construction permit. Two copies of a construction permit application for an anaerobic lagoon shall be presented or mailed to Department of Natural Resources, Water Quality Bureau, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319.

Item 2. Amend paragraph **22.1(3)”b”** by adopting a **new** subparagraph 11 as follows:

(11) For all applications for projects that will or do have greenhouse gas emissions, those emissions shall be quantified in the application. For all applications for projects that will not or do not have greenhouse gas emissions, the applicant shall indicate in the application that no greenhouse gasses will be emitted, and the applicant will not be required to file an inventory of greenhouse gases with that application, unless requested by the department.

Item 3. Amend subrule **22.105(1)** as follows:

22.105(1) *Duty to apply.* For each source required to obtain a Title V operating permit, the owner or operator or designated representative, where applicable, shall present or mail a complete and timely permit application in accordance with this rule to the following locations: Iowa Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor

Heights, Iowa 50324 (~~two copies~~one copy); and U.S. EPA Region VII, 901 North 5th Street, Kansas City, Kansas 66101 (one copy); and, if applicable, the local permitting authority, which is either Linn County Public Health Department, Air Quality Division, 501 13th Street NW, Cedar Rapids, Iowa 52405 (one copy); or Polk County Public Works, Air Quality Division, 5885 NE 14th Street, Des Moines, Iowa 50313 (one copy). Application submission methods may include, but are not limited to: U.S. Postal Service, private parcel delivery services, or hand delivery. Applications are not required to be submitted by certified mail. Alternatively, an owner or operator may submit a complete and timely application through the electronic submittal format specified by the department.

Each permit application submitted to the department electronically must bear a valid electronic signature, and must otherwise comply with the requirements of 567-Chapter 15. A valid electronic signature, as defined in 567—Chapter 15, means an electronic signature on an electronic document created by using an electronic signature device that the identified signatory is uniquely entitled to use for signing the electronic document, provided the device has not been compromised and provided the signatory is an individual authorized to sign the document by virtue of legal status or relationship to the entity on whose behalf this signature is created. At a minimum, the signature page(s) of an application must contain a valid electronic signature created using an electronic signature device. The remainder of the application may be submitted via e-mail or any other paper or electronic method. An owner or operator may submit documents with signatures that do not meet the definition of a valid electronic signature contained in 567-Chapter 15, when the documents are submitted via facsimile; electronic documents are submitted via magnetic or optical media; or non-federal, state only program information is submitted through an electronic submittal system.

An owner or operator of a source required to obtain a Title V permit pursuant to subrule 22.101(1) shall submit all required fees as required in 567—Chapter 30.

Date

Chuck Gipp, Director

**Administrative Rules
JOBS IMPACT STATEMENT**

1. BACKGROUND INFORMATION

Agency:	Environmental Protection Commission / Department of Natural Resources (Department)
IAC Citation:	567 IAC Chapter 22
Agency Contact:	Christine Paulson (515) 725-9510
Statutory Authority:	Iowa Code section 455B.133
Objective:	The purpose of the proposed air quality rule changes is to formalize permitting process improvements identified during the “Lean” events involving the Department and the Office of Lean Enterprise in the Department of Management and stakeholders from 3M Company, Grain Processing Corporation, Monsanto Company, Pella Corporation, and Stanley Consultants, Inc. Lean is a collection of principles, methods, and tools that improve the speed and efficiency of any process by eliminating waste.
Summary:	The rule changes clarify what types of mail services may be used to submit construction permit and Title V permit applications, and make clear that applications are not required to be submitted by certified mail. The rule changes also describe what constitutes a valid electronic signature for construction permit and Title V permit applications that may be submitted electronically, and the electronic media submission requirements for compliance with the federal Cross Media Electronic Reporting Rule. Additionally, the proposed changes reduce the regulatory burden for construction permit applications for projects that do not emit or will not emit greenhouse gases (GHG) by eliminating the requirement to submit the current 3-page GHG form. The proposed rule also eliminates the requirement to submit two copies of the Title V permit application to the Department, only one copy is now required (a similar change was made for construction permit applications in the Regulatory Certainty rules package).

2. JOB IMPACT ANALYSIS

<input type="checkbox"/> <i>Fill in this box if impact meets these criteria:</i>
<input type="checkbox"/> No Job Impact on private sector jobs and employment opportunities in the State.
<input type="checkbox"/> Job Impact cannot be determined.

<p><u> x </u> Fill in this box if impact meets either of these criteria:</p>
<p><u> X </u> Positive Job Impact on private sector jobs and employment opportunities in the State. <u> </u> Negative Job Impact on private sector jobs and employment opportunities in the State.</p> <p><i>Description and quantification of the nature of the impact the proposed rule will have on private sector jobs and employment opportunities:</i></p> <p>After analysis and review, the Department has determined that the proposed changes will have a positive impact on private sector jobs. The rule changes clarify submittal aspects of the construction permit and Title V permit application processes and provide additional certainty for applications regarding the application submittal process and, in some cases, regulatory relief. For instance, facilities that had previously chosen to submit hard copy applications by certified mail are likely to realize cost savings by using another, less expensive submittal method. In addition, there will be cost and time savings with having to submit only one copy of the Title V permit application to the Department. And the requirement to submit GHG forms is being eliminated in many instances. These savings can be put back into the company (e.g., to be used for job creation).</p>
<p><i>Categories of jobs and employment opportunities that are affected by the proposed rule:</i> These rule changes will positively affect companies in all types of industrial sectors.</p>
<p><i>Number of jobs or potential job opportunities:</i> Cannot be determined at this time.</p>
<p><i>Regions of the state affected:</i> All regions of the state.</p>
<p><i>Additional costs to the employer per employee due to the proposed rule: (if not possible to determine, write "Not Possible to Determine.")</i> No additional costs to the employer.</p>

3. COST-BENEFIT ANALYSIS

The Agency has taken steps to minimize the adverse impact on jobs and the development of new employment opportunities before proposing a rule. See the following Cost-Benefit Analysis:

<p>No other less intrusive or inexpensive method exists for achieving the purpose of the proposed rules.</p>
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Administrative Rule Fiscal Impact Statement

Date: November 3, 2016

Agency: Environmental Protection Commission / Department of Natural Resources
(Department)

IAC Citation: 567 IAC Chapter 22

Agency Contact: Christine Paulson

Summary of the Rule:

The purpose of the proposed air quality rule changes is to formalize permitting process improvements identified during the “Lean” events involving the Department and the Office of Lean Enterprise in the Department of Management and stakeholders from 3M Company, Grain Processing Corporation, Monsanto Company, Pella Corporation, and Stanley Consultants, Inc. Lean is a collection of principles, methods, and tools that improve the speed and efficiency of any process by eliminating waste.

The rule changes clarify what types of mail services may be used to submit construction permit and Title V permit applications, and make clear that applications are not required to be submitted by certified mail. The rule changes also describe what constitutes a valid electronic signature for construction permit and Title V permit applications that may be submitted electronically, and the electronic media submission requirements for compliance with the federal Cross Media Electronic Reporting Rule. Additionally, the proposed changes reduce the regulatory burden for construction permit applications for projects that do not emit or will not emit greenhouse gases (GHG) by eliminating the requirements to submit the current 3-page GHG form. The proposed rule also eliminates the requirement to submit two copies of the Title V permit application to the Department, only one copy is now required (a similar change was made for construction permit applications in the Regulatory Certainty rules package).

Fill in this box if the impact meets these criteria:

☒ No Fiscal Impact to the State.

☐ Fiscal Impact of less than \$100,000 annually or \$500,000 over 5 years.

☐ Fiscal Impact cannot be determined.

Brief Explanation:

The Department will use existing budget and resources to implement the rule.

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 2015)</u>	<u>Year 2 (FY 2016)</u>
Revenue by Each Source:		
GENERAL FUND	\$0	\$0
FEDERAL FUNDS	\$0	\$0
Other (specify)	\$0	\$0
	<hr/>	<hr/>
	\$0	\$0
TOTAL REVENUE		
Expenditures:		
GENERAL FUND	\$0	\$0
FEDERAL FUNDS	\$0	\$0
Other (specify)	\$0	\$0
	<hr/>	<hr/>
	\$0	\$0
TOTAL EXPENDITURES		
	\$0	\$0
NET IMPACT		
<input type="checkbox"/> This rule is required by State law or Federal mandate. Please identify the state or federal law:		
<input type="checkbox"/> Funding has been provided for the rule change. Please identify the amount provided and the funding source:		
<input checked="" type="checkbox"/> Funding has not been provided for the rule. Please explain how the agency will pay for the rule change:		
The Department will utilize existing resources at this time.		

Fiscal impact to persons affected by the rule:

The Department has determined that the proposed rule changes will have positive fiscal impacts to persons affected by the rule. The rule changes clarify submittal aspects of the construction permit and Title V permit application processes and provide additional certainty for applications regarding the application submittal process and, in some cases, regulatory relief. For instance, facilities that had previously chosen to submit hard copy applications by certified mail are likely to realize cost and time savings by using another, less expensive submittal method. In addition, there will be cost and time savings with having to submit only one copy of the Title V permit application to the Department. And the requirement to submit GHG forms is being eliminated in many instances. These savings can be put back into the company (e.g., to be used for job creation).

Fiscal impact to Counties or other Local Governments (required by Iowa Code 25B.6):

Linn County and Polk County have state-approved local air quality programs, and would likely adopt changes to their ordinances and procedures that match any changes to state rules. It is unlikely that other cities or counties would be affected by the rule changes. However, if a city or county government is subject to the air quality rules being amended, the local governments would be benefitted in the same manner as described above for industries and businesses.